

LAW AND PUBLIC SAFETY

POLICE TRAINING COMMISSION

Police Training Commission Rules

Proposed Readoption with Amendments: N.J.A.C. 13:1

Authorized By: Police Training Commission,
Vaughn L. McKoy, Acting Chairman,
Acting Director, Division of Criminal Justice

Authority: N.J.S.A. 52:17B-71h.

Calendar Reference: See Summary below for an explanation of the
exception to the calendar requirement.

Proposal Number: PRN - 257

Interested persons may submit written comments relevant to
the proposal on or before 5:00 P.M., September 5, 2003. Comments
and any inquiries about submissions or responses should be
submitted in writing to:

Vaughn L. McKoy, Acting Chairman
Police Training Commission
Department of Law and Public Safety
Division of Criminal Justice
P.O. Box 085
Trenton, New Jersey 08625-9919

Written comments and any inquiries can also be submitted via
facsimile to:

Fax Number: 609-341-2077

Vaughn L. McKoy, Acting Chairman

Proposed June 2, 2003 by AAG Vaughn L. McKoy, Acting Director

The agency proposal follows:

Summary

The purpose of the Police Training Act (N.J.S.A. 52:17B-66 et seq.) is to provide for the training of newly appointed county and municipal police officers and State and county corrections officers. Under the Act, newly appointed police officers and corrections officers must attend and successfully complete a basic training course before they may accept permanent appointment. The Police Training Commission is responsible for implementing the provisions of the Act.

The Commission is specifically responsible for the administration and supervision of basic training courses mandated by the Police Training Act. For example, the Commission approves those schools authorized to provide training, prescribes the curriculum and minimum courses of study for approved basic training courses and certifies those trainees that attend and successfully complete a basic training course. The Commission also certifies the instructors who teach the training courses.

At present, the Commission supervises the operation of 23 schools which provide basic training to every newly appointed police officer and corrections officer in New Jersey. In addition, the Commission supervises the administration of 35 training courses and certifies over 5,000 instructors. During 2001-2002, the Commission supervised the training and certification of 3,387 newly appointed police officers and

corrections officers.

The Commission's present rules were scheduled to expire on June 4, 2003. However, by the timely filing of this notice of proposed readoption, the expiration date is extended to December 1, 2003, pursuant to N.J.S.A. 52:14B-5.1c. The present rules provide for the certification of schools that conduct basic training courses, the certification of instructors who teach during basic training courses and the certification of trainees who successfully complete basic training courses. The rules further provide for the establishment of basic training courses, the adoption of the minimum curriculum for each course and the operation and administration of schools approved to conduct basic training courses. The rules also outline the responsibilities of law enforcement agencies that send trainees to approved schools for basic training courses and the procedures for individual trainees to appeal their dismissal from a basic training course.

The Commission has reviewed the present rules and determined that they continue to be necessary and reasonable in implementing the Police Training Act and administering the training of newly appointed police officers and corrections officers throughout the State of New Jersey. As a result, the Commission proposes to readopt most of the present rules without change. In several instances, the Commission proposes amendments to the current rules so that the rules may better reflect the Commission's current policies and procedures. The rules proposed for readoption and amendment reflect the Commission's continuing commitment to

providing quality basic training courses for newly appointed police officers and corrections officers. Included in the changes are minor technical amendments pertaining to codification.

Subchapter 1, which contains the definitions used in the chapter, is proposed for readoption without amendment. Subchapter 2, which provides for relaxation of these rules, and describes the authority of the Commission chair, is proposed for readoption without amendment. Subchapter 3, which contains the rules for certification of police training schools is proposed for readoption without amendment. Subchapter 4 contains rules for certification of instructors. This Subchapter is proposed for readoption with certain amendments, which are explained below in this Summary. Subchapter 5, which contains rules for certification of trainees, is proposed for readoption without amendment. Subchapter 6 contains rules on the curriculum. The Commission proposes a technical amendment, which is explained below in this Summary. Subchapter 7 contains rules on school administration. The Commission proposes certain amendments, which are explained below in this Summary. Subchapter 8 contains rules on the responsibilities of law enforcement and other agencies. The Commission proposes an amendment to N.J.A.C. 13:3-8.1, which

is explained below in this Summary. Subchapter 9, which contains the rules for appeals to the Commission, is proposed for readoption without amendment.

The proposed amendments are summarized as follows:

The Commission proposes to amend N.J.A.C. 13:1-4.6 to provide for the certification of first responder instructors. Subsection (b) of N.J.A.C. 13:1-4.6 will be recodified as paragraph 8 of subsection (a). A new paragraph 9 is added to subsection (a) containing the new provisions. A component of all basic training courses for newly appointed police officers is emergency first aid training. This component is referred to as "first responder" training. The Commission is seeking to implement a certification requirement for instructors who provide first responder training. Under the proposed amendment, only certified instructors will be permitted to provide first responder training. The proposed amendment will also require individuals seeking certification as a first responder instructor to possess certification as an emergency medical technician from the New Jersey Department of Health and Senior Services, pursuant to the provisions of N.J.A.C. 8:40A-3.7. The proposed amendment further provides that in order for an individual to continue as a first responder instructor, the

individual must maintain their certification from the New Jersey Department of Health and Senior Services as an emergency medical technician. Individuals who have completed advanced medical training and are currently licensed as a medical practitioner or health care provider will be certified as a first responder instructor without the necessity of having to obtain certification as an emergency medical technician.

The purpose of the proposed amendment is to upgrade the quality of instruction provided to newly appointed police officers during first responder training. As potential first responders to the scene of a medical emergency, police officers may be called upon to administer emergency first aid and take potentially lifesaving actions. The Commission believes that it is important for instruction in this important topic to be provided by individuals who are themselves qualified to provide emergency first aid. Thus, under the proposed amendment, instructors who provide first responder training will be required to possess certification as an emergency medical technician.

In conjunction with the proposed amendment to N.J.A.C. 13:1-4.6, the Commission proposes to amend N.J.A.C. 13:1-7.2(a)13 to prohibit the use of non-certified instructors during first

responder training. The present rules permit approved schools to utilize the services of non-certified instructors during basic training in emergency or compelling circumstances. Typically, these circumstances would be the result of an unexpected absence or illness on the part of the certified instructor who was scheduled to teach. However, the present rules prohibit the use of non-certified instructors during firearms training, vehicle operations training and physical conditioning training. The proposed amendment would add first responder training to the list of topics which require a certified instructor be used.

The Commission proposes to amend N.J.A.C. 13:1-6.1 so that the Commission's mailing address reflects changes made by the State Post Office.

The Commission proposes to amend N.J.A.C. 13:1-7.2 (a)19 to clarify when drug testing must be conducted during basic training courses and to conform the Commission's drug testing procedures with the methods and procedures set forth in the Attorney General's *New Jersey Law Enforcement Drug Testing Policy* and the *New Jersey Drug Testing Manual*. The proposal seeks to amend subsection(a) by amending the introductory text in paragraph 19, by deleting and replacing the text found in subparagraphs i. and

by deleting the text presently found at subparagraphs ii. through xi. The text currently found at subparagraphs xi and xii will be recodified as subparagraphs ii and iii.

First, the Commission proposes to amend N.J.A.C. 13:1-7.2(a)19 to clarify when school directors must conduct drug testing. The present regulations governing drug testing (N.J.A.C. 13:1-7.2(a)19ii through xii) do not specify when and under what circumstances drug testing must be conducted by approved schools. Under the proposed amendment, school directors will be required to conduct drug testing during all basic courses in which training in "use of force" and "defensive tactics" is provided. The proposed amendment further provides that drug testing may be conducted at any time during the basic course. The purpose of the proposed amendment is to ensure that trainees engaged in the illegal use of drugs do not compromise the safety of other trainees who must participate in firearms qualification during use of force training and/or practical exercises during defensive tactics training.

Second, the Commission proposes to amend N.J.A.C. 13:1-7.2(a)19i to require that the drug testing procedures utilized by approved schools during basic training courses conform to the methods and procedures set forth in the Attorney General's *New*

Jersey Law Enforcement Drug Testing Policy and the *New Jersey Law Enforcement Drug Testing Manual*. At present, school directors who conduct drug tests may refer to the Commission's present rule governing drug testing for guidance as well as *New Jersey Law Enforcement Drug Testing Policy* and the *New Jersey Law Enforcement Drug Testing Manual*. While these three sources of guidance are generally consistent, they are not identical. As a result, the possibility of confusion and error in the administration of drug tests exists. In addition, it is possible that the methods and procedures utilized by individual school directors lack uniformity. The Commission proposes to eliminate these concerns by amending the present rule governing drug tests to incorporate, by reference, the *New Jersey Law Enforcement Drug Testing Policy* (hereafter referred to as the *Policy*) and the *New Jersey Law Enforcement Drug Testing Manual* (hereafter referred to as the *Manual*). The Commission will thus ensure that the *Policy* and the *Manual* become its sole sources of guidance for school directors responsible for conducting drug tests. The Commission will further ensure that the drug test procedures utilized by its approved schools is identical to the drug test procedures utilized

by all other law enforcement agencies in New Jersey. The proposed amendment will also ensure that law enforcement trainees are drug tested in a manner identical to all other law enforcement personnel in New Jersey.

The Commission's present rule governing drug testing was first adopted in 1988. The Commission's adoption of the rule was in response to the Attorney General's decision in 1986 to issue drug testing guidelines for all law enforcement agencies in New Jersey including schools approved to conduct basic training courses. The Attorney General's guidelines, which were issued pursuant to the authority vested in him by the Criminal Justice Act of 1970 (N.J.S.A. 52:17B-97 et seq.), contained specific information about the methods and procedures to be used for drug testing: 1) applicants for law enforcement employment; 2) law enforcement trainees; and 3) sworn law enforcement officers. The guidelines were revised in 1990 and again 1998. Following the 1998 revisions, the guidelines were designated as the Attorney General's *New Jersey Law Enforcement Drug Testing Policy*.

In 2001, the Attorney General issued the *New Jersey Law Enforcement Drug Testing Manual*. The purpose of the *Manual* is to complement the *New Jersey Law Enforcement Drug Testing Policy* by

providing specific guidance concerning the administration drug tests including: 1) the acquisition and collection of specimens; 2) the submission of specimens for analysis; 3) the types of drugs for which tests will be conducted; and 4) the specific methods of scientific analysis to be utilized during the test process. Read together, the *Policy* and the *Manual* provide a comprehensive scheme for the implementation and administration of law enforcement drug testing.

In addition, the *Policy* and the *Manual* provide significant procedural protections to those trainees ordered to undergo a drug test. These protections include the right to request that a second specimen be preserved by the approved school for testing at a later date by an independent laboratory. The *Policy* and the *Manual* also require the use of chain-of-custody procedures during the collection of specimens and their subsequent submission for analysis.

The Commission's present rule, which was adopted in response to the Attorney General's initial set of guidelines, was intended to reflect the principal provisions of the guidelines as they applied to law enforcement trainees. However, the rule was not intended to supplant or replace the initial guidelines, the

current *Policy* or the *Manual*. Thus the rule contains an abbreviated description of the drug testing process and almost no information concerning the subsequent submission and analysis of specimens. Furthermore, the rule does not provide school directors with the degree of guidance concerning the implementation and administration of a drug testing program that is contained in the *Policy* and the *Manual*.

The Commission believes that amending its present rule governing drug testing to incorporate, by reference, the *New Jersey Law Enforcement Drug Testing Policy* and the *New Jersey Law Enforcement Drug Testing Manual* will improve the implementation and administration of drug testing programs at schools approved to conduct basic training courses. The proposed amendment will provide school directors responsible for conducting drug tests with specific and detailed guidance concerning the drug testing process. In addition, the proposed amendment will provide law enforcement trainees with a comprehensive explanation of the drug testing process and significant procedural protections. The Commission further believes that amending the present rule to incorporate the *Policy* and the *Manual* will help to eliminate the

possibility that confusion and errors will occur during the drug testing process. The proposed amendment will also ensure that the Commission's drug testing procedures are identical to the procedures utilized by other law enforcement agencies throughout New Jersey. Copies of the *New Jersey Law Enforcement Drug Testing Policy* and the *New Jersey Law Enforcement Drug Testing Manual* are available by writing to the Commission or by visiting the Division of Criminal Justice web site at www.njdcj.org.

The Commission proposes to amend N.J.A.C. 13:1-8.1 to delete a requirement at paragraph (a)6 that the agency training component of basic training be conducted before a trainee enters a basic training course. Under the present rules, trainees entering a basic training course are required to undergo training in their employing agency's policies, practices and procedures. This training, which is referred to as "agency" training, is the responsibility of the trainee's employing agency. The present rules further require that each trainee must complete agency training before he or she may begin a basic training course at an approved school.

Under the proposed amendment, trainees would still be required to complete agency training before they could be

considered eligible for certification as having completed the basic course. However, the proposed amendment would delete the requirement that this training be completed prior to the commencement of a basic training course. As a result, each trainee's employing agency would be free to schedule agency training at its discretion. The Commission believes that the proposed amendment would provide each trainee's employing agency with some flexibility regarding its training assignments.

A 60 day comment period is provided and therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The rules proposed for readoption with amendments are intended to reflect the current policies and procedures of the Police Training Commission. The rules govern the administration of basic training courses, the certification of trainees who successfully complete a basic training course, the certification of instructors and the approval of schools that wish to conduct basic training courses. The rules also require agencies that employ newly appointed police officers and corrections officers to conduct a background investigation of each trainee and to conduct

training in each agency's policies, practices and procedures.

The readoption and amendment of these rules will be beneficial to both the State's law enforcement agencies and the public for the following reasons. First, the proposed amendments will upgrade the quality of first responder training by mandating that first responder instructors are certified emergency medical technicians. Because police officers may be called upon to provide emergency first aid, it is important that those individuals providing instruction in emergency first aid during basic training courses are themselves qualified to provide emergency first aid. The Commission believes that by improving the quality of instruction in emergency first aid procedures, newly appointed police officers will be better trained to assist with medical emergencies.

Second, the proposed amendments will clarify when drug testing is to be conducted during basic training courses. The proposed amendments will also clarify the Commission's methods and procedures governing drug testing. The proposed amendments will provide school directors responsible for conducting basic training courses with greater guidance on the manner in which drug testing should be conducted. The proposed amendments will also give trainees who attend basic training courses more extensive notice of the methods and procedures employed during drug testing. The Commission believes that the proposed amendments will serve to deter and/or interdict the use of illegal drugs by trainees during basic training courses thereby enhancing the safety of all other

trainees. The Commission further believes that the proposed amendments will serve to contribute to the integrity of basic training courses. Finally, the proposed amendment will provide trainees who undergo drug testing with important procedural safeguards including the right to request a split specimen for independent testing at a later date.

The Commission anticipates that the readoption and amendment of these rules will have a positive impact on law enforcement agencies that enroll individuals in training courses approved by the Commission as well as the trainees who successfully complete training. In turn, the public whom these officers serve will also benefit. No adverse social impact is expected from the readoption and amendment of these rules.

Economic Impact

The readoption and amendment of these rules should not have any economic impact of consequence. No increase in the cost of administering and conducting basic training courses is expected to accrue to any government agency that operates a school approved by the Commission. Most of the schools approved by the Commission employ a limited number of people. Furthermore, the bulk of the training and instruction is conducted by volunteer instructors. In addition, the cost of training newly appointed officers is not

expected to increase for State, county and municipal law enforcement agencies. For the most part, training costs for State, county and municipal law enforcement agencies consists of two expenses. First, schools may charge law enforcement agencies enrollment fees to cover the cost of training officers sent by that agency for basic training. Second, every law enforcement agency is required to provide newly appointed officers with a leave of absence with pay to attend basic training. Because the readoption and amendment of these rules does not alter the curriculum used in basic training courses, the length of time required for basic training and the substance of the training will not change.

As a result, there should be no need for schools to increase the fees they charge. Nor will there be a need for law enforcement agencies to extend the length of the leaves they grant officers to attend training. As for the Commission, the purpose of readopting and amending the rules is to improve the efficiency and operation of the Commission and its staff. The administration of basic training courses and the supervision of schools approved to conduct basic training by Commission staff will improve. The proposed amendments will serve to conform the rules to the current

practices and procedures utilized by Commission staff to perform its duties. The net result should be no change in cost of implementing the provisions of the Police Training Act.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption and amendment were not issued: 1) under the authority of any Federal law or State statute that incorporates or refers to Federal law, Federal standards or Federal requirements; or 2) to implement, comply with or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal law, Federal standards or Federal requirements.

Job Impact

The Commission anticipates that the rules proposed for readoption and amendment will not result in the creation of new jobs or cause the loss of existing jobs.

Agriculture Industry Impact

The rules proposed for readoption and amendment will not have any impact on the agriculture industry in New Jersey or elsewhere.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for readoption and amendment do not impose reporting, record keeping or other compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption and amendment apply only to those government agencies that operate schools authorized to conduct basic training courses approved by the Police Training Commission or enroll individuals in basic training courses approved by the Commission. The rules do not impact small businesses.

Smart Growth Impact

The rules proposed for readoption and amendment will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:1.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 4. INSTRUCTOR CERTIFICATION

13:1-4.6 Certification requirements for instructors of certain subjects

(a) Applicants who seek certification to instruct in certain subjects must be certified as an instructor and meet the following requirements:

1.-7. (No change.)

[(b)] 8. An individual seeking recertification as a vehicle operations senior instructor must meet a continuing education requirement. Participation in a vehicle operations senior instructor update will satisfy this requirement.

9. An individual seeking certification as a first responder instructor at a Commission-approved school must be certified by the New Jersey Department of Health and Senior Services as an emergency medical technician pursuant to N.J.A.C. 8:40A-3.7. For an individual to continue as a certified first responder instructor, the individual must maintain his or her certification as an emergency medical technician. Individuals who have completed advanced medical training and are currently licensed as a medical practitioner or health care provider will be

deemed to have satisfied the requirements of this paragraph.

SUBCHAPTER 6. CURRICULUM

13:1-6.1 Curriculum and courses

A curriculum issued by the Commission shall be the required curriculum at a Commission-approved school and shall constitute the minimum requirements for trainee certification. The Commission curricula are incorporated herein by reference and are available from the Commission at [the Hughes Justice Complex] 25 Market Street, PO Box 085, Trenton, New Jersey 08625-0085. An approved school shall conduct basic courses and those other courses as shall be required by the Commission. In addition to the required curriculum, a school may also offer, with Commission staff approval, additional components of a basic course. However, additional components shall not be considered part of the minimum requirements for trainee certification absent approval by the Police Training Commission.

SUBCHAPTER 7. SCHOOL ADMINISTRATION

13:1-7.2 Operating entity responsibilities

(a) The law enforcement agency, combination of law

enforcement agencies, institution of higher learning, or recognized governmental entity certified to operate a school is vested with the power, responsibility and duty:

1. -12. (No change.)

13. To verify that all instructors have Commission certification. In an emergency or compelling circumstances, a non-certified instructor may be used except that an emergency certification will not issue for firearms, vehicle operations, first responder or physical conditioning instruction. In the event an emergency certification is necessary, Commission staff shall be notified as soon as possible and prior to any teaching by such individual and informed of the reason for this exception;

14. -18. (No change.)

19. To conduct drug screening of all trainees so as to provide for the safety and welfare of all trainees, instructors and other school personnel [in accordance with the following procedures:]. Drug testing shall be conducted during all basic courses in which use of force and unarmed defensive tactics training is provided. Trainees may be tested at any time during a basic course.

i. [All trainees will be requested to sign a

notice and acknowledgment in a form prescribed by the Commission consenting to the screening of their urine during the course.

This notice and acknowledgment will include notification that a positive confirmation of the presence of illegal drugs in the trainee's urine will result in dismissal from the school.] All drug testing conducted at Commission-approved schools during a basic course shall be consistent with and utilize the procedures and methods set forth in the *New Jersey Law Enforcement Drug Testing Policy* and the *New Jersey Drug Testing Manual*, incorporated herein by reference, and including any future supplements and amendments, which can be obtained from the Commission at 25 Market Street, PO Box 085, Trenton, New Jersey 08625-0085, or from the Division of Criminal Justice web site at www.njdcj.org;

[ii. The Commission shall designate the laboratory for both the initial screening and confirmation analysis of urine. All schools shall utilize drug screening equipment and supplies as required or approved by the designated laboratory;

iii. Prior to the submission of a urine sample, the trainee will complete a medical questionnaire in a form prescribed by the Commission which shall clearly describe all drugs, both

prescription and non-prescription, ingested during the past 30 days;

iv. Trainees will be required to submit urine samples at any time during the course;

v. A staff member of the school will be responsible for ensuring that all required forms, such as waivers, laboratory forms and medical questionnaires, have been thoroughly and accurately completed by the trainee. Prior to the submission of the sample, both the staff member and the trainee will inspect the specimen bottle for indications of damage and/or tampering;

vi. Urine samples will be acquired and processed in accordance with accepted chain of evidence procedures.

Throughout the urine acquisition process, the identity of the trainee shall be preserved through use of the trainee's social security number. No forms forwarded to the laboratory will contain the trainee's name;

vii. The trainee will complete the information requested on the specimen bottle label and any related agency or laboratory forms;

viii. After the staff member has inspected the information for accuracy, the trainee will void into the specimen

bottle. The trainee will void without direct supervision unless the staff member has reason to believe that the trainee will alter or substitute a specimen. Under those circumstances, direct supervision is permitted. The specimen will be handled and processed in accordance with procedures approved by the Commission;

ix. After ascertaining that all forms have been completed accurately, the staff member shall take possession of the sample and ensure that it is delivered to the designated laboratory. This delivery shall occur within one laboratory working day of acquisition;

x. The designated laboratory shall provide the school director with notification of any urinalysis resulting in a positive test result. A sample shall be considered positive for the presence of drugs only when a confirmatory test procedure has been conducted. A written laboratory report shall be obtained for all positive samples. All trainees who are found positive for drugs and an appropriate official in the trainee's law enforcement agency will be orally notified by the school director of the positive confirmation result as soon after notification from the laboratory as possible. A copy of the laboratory report shall be

provided by the school director to Commission staff and, if requested, the trainee;]

Recodify existing xi. and xii. as ii. and iii. (No change in text.)

20.-23. (No change.)

SUBCHAPTER 8. RESPONSIBILITIES OF LAW ENFORCEMENT AGENCIES AND OTHER AGENCIES

13:1-8.1 Certification required prior to acceptance of trainees
into a basic course

(a) Prior to the acceptance of a trainee into a basic course, the chief police officer or chief executive officer of the employing law enforcement agency shall certify by completing a trainee record card issued by the Commission that:

1. - 3. (No change.)

4. The employing law enforcement agency has conducted a pre-employment or background investigation of the individual to ascertain his or her character, fitness and eligibility to be permanently appointed as a police officer. The results of the pre-employment or background investigation shall be made known to

the appointing authority; and

5. The individual has undergone a medical examination by a licensed physician to determine if the individual is medically fit to undergo training. The physician shall state, on a form prescribed by the Commission, whether the individual is medically fit to undergo the training for which the individual is enrolled[; and

6. The individual has received training at the employing law enforcement agency in those performance objectives designated by the Commission].